IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2682 OF 2006

Ratanlal Motilal Agarwal .. Petitioner.
Vs.
Gopi Krishna Ramgopal Garg & Ors. .. Respondents.

Mr.R.A.Thorat for the petitioner.
Mr.P.S.Dani for respondent nos.1 and 2.

CORAM : D.B.BHOSALE, J.

DATED : 9TH FEBRUARY, 2007

P.C.:

. Heard learned counsel for the parties.

2. This petition by a tenant challenges the findings of fact recorded by the courts below decreeing the suit filed by the respondent-landlord on various grounds. In order to satisfy my conscience, I heard Mr.Thorat, learned counsel for the petitioner for quite sometime on the ground of subletting of the suit premises to defendant no.2. I perused the observations made by the appeal court in paragraph 15 to 17, in particular. It is clear that prior to filing of the suit one M/s.Silk World were inducted in the premises. The landlord had issued notice and it was received by them and it appears that they vacated the suit premises before filing of the suit.

Thereafter during pendency of the suit the petitioner inducted defendant no.2 as sub-tenant. Defendant no.2 was examined and accepted that he is in possession of the suit premises and pay rent to the petitioner. This is all considered and discussed by the learned Judge of the appeal court in paragraphs 15, 16 and 17. I find absolutely no reason to interfere with the findings of fact recorded by the appeal court. On this ground alone the respondent is entitled for decree of possession. Keeping that in view and considering the overall facts and circumstances of the case as also the reasons recorded by the courts below, in my opinion, the suit has been rightly decreed on the ground of subletting as also the other grounds. I find that there is sufficient material on record to sustain those findings. Considering the extremely limited jurisdiction of this court under Article 227 of the Constitution of India to disturb the findings of fact this writ petition fails and dismissed as such.

3. At this stage Mr.Thorat prayed for stay of this order to enable the petitioner to carry the matter to the Supreme Court. Though Mr.Dani, learned counsel for respondent nos.1 and 2, opposed the prayer, I am inclined to grant three months time to the petitioner subject to filing of an usual

undertaking. Hence I pass the following order:

. The impugned judgment shall remain stayed for a period of three months from today subject to filing of an usual undertaking by the petitioner in this Court within four weeks from today. If the petitioner fails to file an undertaking, as aforestated, it would be open for the respondents-landlords to execute the decree.

(D.B.Bhosale, J.)